# SECTION 9
LIFE PLANNING/END OF LIFE PREPARATIONS

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LIFE PLANNING PERSPECTIVE

One of the most difficult periods following the loss of a loved one is the period when the deceased’s estate has to be settled. A lack of prior planning in managing the person’s affairs can result in pain and strife among surviving family members.

If you die without executing a will, you are said to have died “intestate.” As a result, your assets and properties will be distributed not according to your wishes, but instead in accordance with probate proceedings, with a court supervising the settlement of your estate. Too often, the courtroom ends up being a battleground where, after evidence is presented by all sides, a determination is made concerning the distribution of assets.

The most important aspects of life planning and end-of-life preparation should begin well before we enter the final stages of our lives. In fact, life planning should begin while we have good health and are considered to be of sound mind. Unless we carefully and deliberately plan and express our wishes in writing and in the appropriate legal format, there is no guarantee that our wishes will be correctly interpreted and honored.

An important aspect of life planning is planning ahead for long-term care needs by learning about long-term care options. Please refer to “Long-term Care Planning” in the Health Insurance Programs section of this guide for more information.

Most people plan to use a good portion of their accumulated assets (pensions, investments, savings, property) to sustain their customary lifestyle. Many elders believe they can also rely on their adult children for support. However, adult children facing their own financial challenges may be unable or unwilling to support their aging parents.

As you get older, there are two important things you must do. First, give a great deal of consideration to how you want your assets managed if you should become sick or incapacitated and are no longer able to manage them yourself. Whom do you know and trust who will act in your best interest? Secondly, give equal consideration to the way you want your assets distributed upon your death.
QUESTION:
How can I ensure that my wishes are honored if something happens to me?

ANSWER:
You should talk with family members and let them know your wishes regarding how much emergency or life-preserving care you want, should you become incapacitated. Those wishes should be formalized in an advance directive (see section on advance directives). You should also consult with an attorney for assistance in developing a Last Will and Testament (will) or a trust agreement to protect and distribute your assets in accordance with your wishes upon death.

For additional information on developing advance directives, wills, and other related legal documents, consult with an elder law attorney. You may contact your Aging and Disability Resource Center for assistance in finding an attorney. You may also call either the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) or the Senior Legal Helpline at 1-888-895-7873 for a referral.

Common Life Planning Mistakes

- Failing to keep records up to date
- Failing to share the location of vital records/documents
- Failing to plan for the uncertainties of life
- Letting emotions rule your decisions
- Failing to properly clear titles to property or possessions you own
- Naming inexperienced or irresponsible executors
- Waiting too late to begin the planning process
ADVANCE DIRECTIVES

Advance directive is a general term that refers to oral or written instructions given by individuals to express their wishes about future medical care in the event they are unable to speak for themselves.

A competent adult has the right of self-determination regarding decisions concerning his or her health, including the right to refuse medical treatment. A person’s intent is usually communicated through a living will, a health care surrogate, and/or a durable power of attorney. A brief description of each of these is provided below:

**Living Will** A document that formalizes your wishes regarding the medical care that is to be used or withheld if you become incapacitated or unable to make your own decisions. Many living wills include “do not resuscitate” orders that spell out the circumstances under which you do not wish to be revived.

**Health Care Surrogate** An individual you select to make medical decisions for you when you are no longer able to make them yourself. A signed and dated written document may revoke a designation of a surrogate at any time.

**Durable Power of Attorney** A document that can delegate the authority to make health, financial, and/or legal decisions on your behalf. A durable power of attorney goes into effect when you are unable to act for yourself. Any person who is competent under law to make a contract can make a power of attorney.

**QUICK FACT:**
A durable power of attorney must specifically state that the designated person is authorized to make health care decisions.

If you choose not to write an advance directive, be sure all of your family members and friends clearly understand what you wish to have done if you are incapacitated. This common understanding among family and friends may prevent confusion in interpreting your wishes.
QUESTION: What happens if I become incapacitated without having made a durable power of attorney?

ANSWER: A guardian may be appointed by a court to make health-care decisions on your behalf during your period of incapacity. Seek the assistance of an attorney specializing in elder law to help you fashion appropriate legal documents.

For additional information on advance directives, contact your attorney or a legal advisor. For referrals, call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337).

QUICK FACT: If you cannot afford an attorney, you can seek help by contacting the Senior Legal Helpline at 1-888-895-7873 or through your local legal aid office.
BEREAVEMENT AND FINAL ARRANGEMENTS

Whether a loved one lived more than 100 years or dies much sooner, this loss is a sad, painful, and deeply personal experience.

While bereavement is a time of reflection and healing, it is also a difficult time when many critical decisions must be made. These decisions range from the choice of funeral and burial arrangements to asset protection and accounting. Unless life care and end-of-life issues have been planned well in advance, a decision made out of highly charged emotions may prove to be disastrous.

Unfortunately, your period of bereavement can be an opportunity for dishonest individuals to try to take advantage of you. Dishonesty can take many forms, including attempts to deny benefits or claims due, overcharging for services rendered, or withholding important information that could affect the decisions and choices you make.

An emotional grieving widow or widower can easily overpay for funeral and burial services. To help protect consumers, the Federal Trade Commission offers a description of your rights when buying funeral goods and services. This information is available online at ftc.gov/bcp/edu/pubs/consumer/products/pro26.shtm. You can also contact the Commission at 202-326-2222. This information can help you ask the right questions and understand your rights as a consumer.

Suggestions for Dealing with Grief

- Talk regularly with friends
- Create a memory book
- Do something your loved one would enjoy
- Allow yourself to laugh and cry
- Reward yourself: take a short vacation
- Do something to help someone else
- Listen to music
- Seek spiritual fulfillment

Steps to Take When a Loved One Dies

- Call family, friends and others
- Initiate the process to secure a death certificate
- Begin searching for important papers
- Finalize burial arrangements
- Contact insurance companies/former employers
- Initiate important cancellation notifications
- Settle the deceased’s estate (See a lawyer if necessary.)
- A certified copy of the death certificate must be presented before insurance proceeds will be released.
Be careful. Do not be pressured into making decisions on the spot or too quickly. Do not be afraid to get second and third opinions. Compare prices and services, and always seek information from independent sources.

Listen carefully to trusted individuals who have no vested interest or potential gain in the outcome of your decisions. While grieving, remember that your loved one cared about you and would be concerned about your financial and physical well-being long after he or she is gone. Try to take comfort in the times and memories you shared. It is okay to laugh, cry, and talk about your loved one as though he or she were still with you. All of these reactions are a normal part of grieving.

**QUESTION:**
It has been nearly two years since I lost my husband of 50 years. I sometimes feel depressed and lonely. Are these feelings normal?

**ANSWER:**
We each grieve differently, and there is no set time period for how long we grieve.

Some loneliness and depression is expected when we are still going through a healing process. For the short term, consider taking an extended trip to visit a family member or friend. For the long term, consider getting more involved in community, church, or volunteer activities. If you believe professional counseling would be beneficial during this period, do not be afraid to ask for help.

For additional information on coping with grief and making final arrangements, contact your local Aging and Disability Resource Center or call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337). You may also contact AARP at 1-800-424-3410.
END-OF-LIFE PREPARATIONS (HOSPICE CARE)

Hospice care is a special way through which family members and others can provide comfort and support to terminally ill loved ones during the final months of their lives. Rather than engage in painful struggles to keep patients alive, this time is used as a period of social, emotional, and spiritual healing. The objective of hospice care is to improve patients’ quality of life by making them as comfortable as possible.

Should your loved one reach a point where death appears to be inevitable, it is important to discuss final wishes with him or her. With advances in today’s medical care, a person’s life can be extended through the use of life support systems; however, the remaining quality of life may be unacceptable. Many patients with terminal illnesses would rather spend their remaining time in the comfort of their home or a hospice facility, close to family and friends. For a complete listing of hospice facilities in your area, refer to the Resource Directory at the back of this guide.

QUESTION:
I have been told by the doctor that I should begin to consider hospice care for my terminally ill father. I am unable to bring him home. What other options are available?

ANSWER:
Most in-patient hospitals provide hospice care. Other alternatives include admission to a hospice in-patient facility. Contact the Agency for Health Care Administration for more information on available options at 1-888-419-3456.

For additional information on hospice programs, contact your Aging and Disability Resource Center or call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337). You can also call the Florida Hospices and Palliative Care Association at 1-800-282-6560 or visit the website at floridahospices.org.

QUICK FACT:
In Florida, for the purpose of hospice care, terminal illness is defined as a life expectancy of six months or less.
ESTATE PLANNING

Estate planning involves developing legal and financial strategies to transfer property from one generation to another. An estate represents a person’s assets and liabilities that remain after death. Estate planning is not just for wealthy people but everyone to some degree.

Without developing a plan for transferring your assets, you run the risk of not having your wishes fulfilled. In fact, if you die without a will or trust instrument, your assets will be probated in the courts. Probate is the legal procedure required to transfer assets from a deceased person to beneficiaries named in a will, or in the absence of a will, to those entitled to inherit under state intestacy laws.

Anyone with living family members, property, or personal belongings needs to document his or her wishes for transferring assets and possessions through estate planning. Good estate planning takes into account taxes, probate, insurance, and investments. The more assets you have, the more time and effort should be spent in estate planning.

QUESTION:
If I failed to make my wishes known through some type of estate planning, what is the worst that can happen?

ANSWER:
Without estate planning, your estate will end up in probate court. Creditors will be given formal notice of your death and may file claims against your estate for prior debts. The probate process can be expensive (court, lawyer, and trustee fees) and drawn out, lasting anywhere from several months to several years.

Seek professional legal, tax, and financial advice to ensure effective estate planning. Experts can advise you on ways to minimize tax consequences and on effective ways to protect your estate. For referrals, call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) or the Senior Legal Helpline at 1-888-895-7873.
LAST WILL AND TESTAMENT

Over your lifetime, you will likely accumulate property and possessions. These items may include stocks, bonds, certificates of deposits, and/or real estate. Most seniors wish to pass their possessions on to their children or other family members.

Proper estate planning will enable you to reduce estate taxes and thereby pass on more of your estate to your loved ones. It is important that you execute a will and specify who you want to receive estate items. A brief overview of each estate-planning tool is provided in the sections that follow.

A will is a document that directs how your property will be disposed of at your death. It also designates a person to be responsible for assembling the property, paying debts and taxes, and distributing what is left. A person who dies without a will dies “intestate.” Consequently, that person’s property is subject to intestacy laws, regardless of his or her wishes. It is a good idea to make a will, even if you have very little property or possessions, to ensure that your assets are distributed according to your wishes.

For additional information on writing a will contact your attorney or a legal advisor. For referrals, call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) or the Senior Legal Helpline at 1-888-895-7873.
TRUSTS

There are two basic types of trusts, revocable and irrevocable. A revocable trust allows you to maintain control over your assets and leaves you unrestricted access to your assets.

With an irrevocable trust, a designated trustee is in control of the assets you placed in trust. Some individuals have set up irrevocable trusts to hide assets in an effort to receive Medicaid benefits, such as nursing home care, by circumventing Medicaid financial eligibility criteria. Medicaid now has regulations that severely restrict the use of trusts to hide assets for purposes of receiving benefits. These rules allow Medicaid to “look back” for up to 60 months and disqualify an applicant who has hidden assets using trusts. Almost every state has enacted a law permitting it to place liens on the estates of individuals who have received Medicaid benefits for long-term care. Under these new laws, funds held in trusts can be included in these liens.

**QUESTION:**
How can I protect my assets, but at the same time make sure I do not violate laws or rules that may affect my ability to receive long-term care?

**ANSWER:**
Consult with an attorney specializing in elder law for an answer to this question and other related “asset protection” questions. In seeking professional help, make sure the person you select is knowledgeable about Medicaid rules and regulations.

For additional information on trusts and Medicaid rules and regulations, contact your attorney or a legal advisor. For referrals, call the Elder Helpline at 1-800-96-ELDER (1-800-963-5337) or the Senior Legal Helpline at 1-888-895-7873.